

RECEIPT NUMBER
200 510 661

ORIGINAL

7

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGANPAUL LEE SCHRADER,
and his wife, JOANN SCHRADER,

Plaintiffs,

vs.

MALLINCKRODT BAKER, INC.,

Serve Managing Agent: By Registered Mail

222 Red School Lane
Phillipsburg, NJ 08865

and

FISHER SCIENTIFIC INTERNATIONAL, INC.,

Serve Registered Agent: By Registered Mail

CT Corporation System
9 Capitol Street
Concord, NH 03301

Defendants.

JUDGE : Tarnow, Arthur J.
DECK : S. Division Civil Deck
DATE : 07/19/2004 @ 14:44:15
CASE NUMBER : 2:04CV72679
CMP SCHRADER ET AL V.
MALLINCKRODT BAKER INC ET AL
(DA)

MAGISTRATE JUDGE MONA K. MAJZOLIS

JURY TRIAL DEMANDED

U.S. DISTRICT COURT CLERK
EAST DIST. MICH.
DETROIT-PSG

04 JUL 19 P2:50

FILED

COMPLAINT

COMES NOW Plaintiff Paul Lee Schrader and his wife, JoAnn Schrader, by and through their attorneys, and for their cause of action against Defendants Mallinckrodt Baker, Inc. and Fisher Scientific International, Inc., state as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. That Plaintiff Paul Lee Schrader (hereinafter "Plaintiff") and his wife JoAnn Schrader are residents of the State of Michigan.
2. That Defendant Mallinckrodt Baker, Inc. is a New Jersey Corporation in good

standing.

3. That Defendant Fisher Scientific International, Inc. is a Delaware Corporation in good standing.

4. That Defendant Mallinckrodt Baker, Inc. and Defendant Fisher Scientific International, Inc. are hereinafter referred to collectively as "Defendants".

5. That from approximately 1974 through 1979, while working as a laboratory technician for the Pennwalt Corporation, Plaintiff was exposed to benzene marketed and sold by Defendants.

6. That as a direct and proximate result of Plaintiff's exposure to benzene, he developed acute myelogenous leukemia.

COUNT I - STRICT LIABILITY/PRODUCT DEFECT

7. That Plaintiff alleges and incorporates herein each and every allegation set forth in paragraphs 1 through 6.

8.. That Defendants sold the benzene in the course of Defendants' business.

9. That the benzene was in a defective condition unreasonably dangerous when put to a reasonably anticipated use.

10. That the benzene was used in a manner reasonably anticipated.

11. That as a direct and proximate result of the condition as existed when the benzene was sold, Plaintiff sustained damages, to wit: he developed acute myelogenous leukemia, and severe and permanent disability therefrom; he has incurred medical bills, and will continue to incur medical bills in the future; he has lost wages, and will continue to lose wages in the future; he has suffered pain, and will continue to suffer pain in the future; he has suffered in his ability to

work, labor, and enjoy the ordinary pursuits of life.

12. That as a direct and proximate result of the defective condition as existed when the benzene was sold, and the injuries and damages suffered by Plaintiff, JoAnn Schrader has suffered and will continue to suffer the loss of the society, consortium, companionship, love, affection, support, and care of her husband.

WHEREFORE, Plaintiff Paul Lee Schrader and JoAnn Schrader, pray judgment against Defendants Mallinckrodt Baker, Inc. and Fisher Scientific International, Inc., in an amount in excess of \$75,000 (Seventy-Five Thousand Dollars), together with their costs herein expended, and any further relief this Court deems just and proper.

COUNT II - NEGLIGENT FAILURE TO WARN

13. That Plaintiff alleges and incorporates herein each and every allegation set forth in paragraphs 1 through 6.

14. That Defendants marketed and sold the benzene.

15. That Defendants failed to use ordinary care to adequately warn of the risk of harm associated with exposure to benzene.

16. That as a direct and proximate result of this carelessness and negligence of Defendants, Plaintiff sustained damages, to wit: he developed acute myelogenous leukemia, and severe and permanent disability therefrom; he has incurred medical bills, and will continue to incur medical bills in the future; he has lost wages, and will continue to lose wages in the future; he has suffered pain, and will continue to suffer pain in the future; he has suffered in his ability to work, labor, and enjoy the ordinary pursuits of life.

17. That as a direct and proximate result of the carelessness and negligence of

Defendants, and the injuries and damages suffered by Plaintiff, JoAnn Schrader has suffered and will continue to suffer the loss of the society, consortium, companionship, love, affection, support, and care of her husband.

WHEREFORE, Plaintiff Paul Lee Schrader and JoAnn Schrader, pray judgment against Defendants Mallinckrodt Baker, Inc. and Fisher Scientific, Inc., in an amount in excess of \$75,000 (Seventy-Five Thousand Dollars), together with their costs herein expended, and any further relief this Court deems just and proper.

COUNT III - STRICT LIABILITY/FAILURE TO WARN

18. That Plaintiff alleges and incorporates herein each and every allegation set forth in paragraphs 1 through 6.

19. That Defendants sold the benzene in the course of Defendants' business.

20. That the benzene was then unreasonably dangerous when put to a reasonably anticipated use without knowledge of its characteristics.

21. That Defendants did not give adequate warning of the danger associated with exposure to benzene.

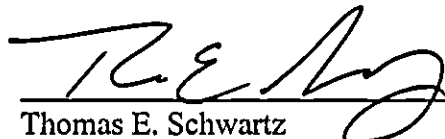
22. That the benzene was used in a manner reasonably anticipated.

23. That as a direct and proximate result of the condition as existed when the benzene was sold, Plaintiff sustained damages, to wit: he developed acute myelogenous leukemia, and severe and permanent disability therefrom; he has incurred medical bills, and will continue to incur medical bills in the future; he has lost wages, and will continue to lose wages in the future; he has suffered pain, and will continue to suffer pain in the future; he has suffered in his ability to work, labor, and enjoy the ordinary pursuits of life.

24. That as a direct and proximate result of the defective condition as existed when the benzene was sold, and the injuries and damages suffered by Plaintiff, JoAnn Schrader has suffered and will continue to suffer the loss of the society, consortium, companionship, love, affection, support, and care of her husband.

WHEREFORE, Plaintiff Paul Lee Schrader and JoAnn Schrader, pray judgment against Defendants Mallinckrodt Baker, Inc. and Fisher Scientific International, Inc., in an amount in excess of \$75,000 (Seventy-Five Thousand Dollars), together with costs herein expended, and any further relief this Court deems just and proper.

HOLLORAN STEWART & SCHWARTZ, P.C.

A handwritten signature in black ink, appearing to read "T. E. Schwartz", is written over a horizontal line.

Thomas E. Schwartz
1010 Market St., Suite 1650
St. Louis, Missouri 63101
(314) 621-2121
(314) 621-8512 Facsimile
ATTORNEYS FOR PLAINTIFFS

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: _____

US-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

Paul Lee Schrader, and his wife
Joann Schrader

DEFENDANTS

Mallinckrodt Baker, Inc., and
Fisher Scientific International, Inc.

(b) County of Residence of First Listed

Wayne County

26163

County of Residence of First Listed

New Jersey

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(C) Attorney's (Firm Name, Address, and Telephone Number)

Thomas E. Schwartz, Holloran, Stewart &
Schwartz, P.C., 1010 Market St., Ste. 1650,
St. Louis, MO 63101; (314) 621-2121

Attorneys (If Known)

TARNOW / MKM
ARTHUR J. TARNOW

MAGISTRATE JUDGE MONA K. MAJZOUB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

- Citizen of This State ☒ PLA ☐ DEF
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Citizen of Another ☐ 2 ☐ 2
Incorporated and Principal of Business in Another State ☐ 5 ☒ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3
Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 161 Medicare Act <input type="checkbox"/> 162 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel and Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21; 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 780 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Easements to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multi district Litigation
☐ 7 Appeal to District Judge from Magistrate

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Diversity; 28 U.S.C. @1332(a)

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

#DEMAND

In excess of \$75,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) INSTRUCTIONS:**

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

If yes, give the following information:

Court: U.S. District Court Eastern District of Missouri

Case No.: Judge Stephen N. Limbaugh

Judge: _____

☒ Yes ☐ No
voluntary/Without
prejudice

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes ☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
